

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT  
DEL RIO DIVISION

FILED

OCT 11 2016

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS

CIVIL ACTION NO. \_\_\_\_\_ DEPUTY

JURY

**DR 16 CV 0160**

GERARDO MARES,

*Plaintiff,*

v.

STATE FARM LLOYDS, AND  
CARLOS PIEDRAHITA

*Defendants.*

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**DEFENDANT STATE FARM LLOYDS' NOTICE OF REMOVAL**

Defendant State Farm Lloyds files this Notice of Removal.

**PROCEDURAL BACKGROUND**

1. Plaintiff Gerardo Mares filed this action on August 29, 2016 against State Farm Lloyds and Carlos Piedrahita (hereinafter "Defendants") in the 83<sup>rd</sup> Judicial District of Court of Val Verde County, Texas. That case was docketed under cause number 32767 (hereinafter "State Court Action").

2. State Farm Lloyds was served with the citation and Plaintiff's Original Petition on September 9, 2016. Claim Adjuster Carlos Piedrahita was served on or about September 12, 2016. Defendants filed their Original Answer on October 3, 2016.

3. State Farm Lloyds files this Notice of Removal pursuant to 28 U.S.C. §1446 to remove the State Court Action from the 83<sup>rd</sup> Judicial District of Val Verde County, Texas to the United States District Court for the Western District of Texas, Del Rio Division.

**NATURE OF THE SUIT**

4. This lawsuit involves a dispute over the alleged non-payment of insurance benefits and the handling of Plaintiff's claim for damages allegedly caused by a storm event on or about February 22, 2016 to his three business properties in Del Rio, Texas.

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5. Plaintiff filed a claim with State Farm Lloyds on or about April 21, 2016, and Claim Adjuster Carlos Piedrahita went to perform an inspection of the alleged damage on April 28, 2016 but it was raining so the inspection was reset to May 5, 2016. A letter and estimate were issued to Plaintiff on May 12, 2016. Adjuster Piedrahita found \$6,768.68 damage to the insured's business properties. A draft was issued in the amount of \$2,256.49 (\$6,768.68 minus depreciation and deductible). State Farm received no further communications regarding this claim until Plaintiff filed suit.

6. Plaintiff filed suit on his claim on August 29, 2016. In his Original Petition, Plaintiff asserts causes of action against State Farm Lloyds for alleged breach of contract, alleged violations of Chapters 541 and 542 of the Texas Insurance Code and the Texas Deceptive Trade Practices Act ("DTPA"), and breach of the duty of good faith and fair dealing. Plaintiff asserts causes of action against Carlos Piedrahita for alleged violations of Chapter 541 of the Texas Insurance Code and the DTPA.

#### **BASIS FOR REMOVAL**

7. The Court has jurisdiction over this action under 28 U.S.C. § 1332 because there is and was complete diversity between all parties and the amount in controversy exceeds \$75,000, exclusive of interest and costs. Further, removal is proper because there exists complete diversity of citizenship among Plaintiff and each named Defendant.

8. Plaintiff was, at the time of filing this lawsuit, and still is, a citizen of Val Verde County, Texas, and currently still resides in Val Verde County, Texas.

9. State Farm Lloyds was at the time this action was commenced, and still is, a citizen of Illinois. State Farm Lloyds is a "Lloyd's Plan" organized under Chapter 941 of the Texas Insurance Code. It consists of an unincorporated association of underwriters

who were at the time this action was commenced, and still are, all citizens and residents of Illinois, thereby making State Farm Lloyds a citizen of Illinois for diversity purposes. See *Royal Ins. Co. of Am. v. Quinn-L Capital Corp.*, 3 F.3d 877, 882-83 (5th Cir. 1993) (citizenship of unincorporated association determined by citizenship of members).

10. Defendant Carlos Piedrahita was, at the time the action was commenced, and still is, a resident and a citizen of the State of Florida.

11. Plaintiff seeks monetary damages greater than \$100,000 in Plaintiff's Original Petition. Statutorily trebled damages will exceed \$75,000, excluding attorneys fees, clearly meeting the "amount in controversy" requirement of 28 U.S.C. § 1332(a).

#### **REMOVAL IS PROCEDURALLY CORRECT**

12. This notice of removal is timely under 28 U.S.C. § 1446(b). State Farm Lloyds was served with process on September 9, 2016. Defendant Carlos Piedrahita was served with process on or around September 12, 2016.

13. Defendants State Farm Lloyds and Carlos Piedrahita join in this removal.

14. Venue is proper in this division under 28 U.S.C. §1441(a) because this district and division embrace the place in which the removed action has been pending.

15. In accordance with 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders served upon State Farm Lloyds in the State Court Action are attached to this notice as **Exhibit B**.

16. Additionally, all documents required by Local Rule CV-3 to be filed with this Notice of Removal are attached and indexed in **Exhibit A**.

17. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal will promptly be given to all parties and to the clerk of the 83<sup>rd</sup> Judicial District of Val Verde County, Texas.

### **JURY DEMAND**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, State Farm Lloyds demands a trial by jury.

### **PRAYER**

State Farm Lloyds respectfully requests that the State Court Action be removed and placed on this Court's docket for further proceedings. State Farm Lloyds also requests any additional relief, in law or at equity, to which it may be justly entitled.

Respectfully submitted,

By: 

M. Micah Kessler

State Bar No. 00796878

Nistico, Crouch & Kessler, P.C.

1900 West Loop South, Suite 800

Houston, Texas 77027

Telephone: (713) 781-2889

Telecopier: (713) 781-7222

Email: [mkessler@nck-law.com](mailto:mkessler@nck-law.com)

**ATTORNEY IN CHARGE FOR**

**DEFENDANTS STATE FARM LLOYDS AND**

**CARLOS PIEDRAHITA**

### **OF COUNSEL:**

Angeli P. Gohel

State Bar No. 24082230

Nistico, Crouch & Kessler, P.C.

Email: [agohel@nck-law.com](mailto:agohel@nck-law.com)

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing was duly served upon counsel of record by certified mail return receipt requested and facsimile on October 7, 2016.

Matthew M. Zarghouni  
Zar Law Firm  
7322 Southwest Fwy, Suite 1965  
Houston, Texas 77074  
**VIA FACSIMILE AND**  
**CMRRR – 7016 0910 0000 5752 7909**



M. Micah Kessler